

Notice of Allowability

Application No.

10/502,252

Examiner

Ling-Siu Choi

Applicant(s)

ANDERSEN, EIVIND OLAV

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to May 24, 2006.
2. ☒ The allowed claim(s) is/are 1-22.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 5/24/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

1. This Office Action is in response to the Amendment filed May 24, 2006. Claims 1-22 are now pending, wherein claims 1-20 are drawn to a pigmentable binder composition and claims 21-22 are drawn to a synthetic asphalt.

Allowable Subject Matter

2. Claims 1-22 are allowed.

3. The following is an examiner's statement of reasons for allowance:

The present claims are allowable over the closest references: Fujitani et al. (JP 01-242667) and Syrier et al. (EP 0 179 510 B1).

| A pigmentable binder composition comprising | | Summary of Claim 1 |
|---|---|--------------------|
| A | a petroleum resin | |
| B | a lubricating oil and/or a lubricating oil extract | |
| C | 0.05-less than 3 wt % of amide additive of the general formula $R^1\text{-CO-NH-(CH}_2\text{)}_x\text{-NH-CO-R}^2$ | |

Fujitani et al. disclose a composition for road marking material, comprising (A) 10-20 wt% binder resin, (B) 0.5-5 wt% mineral oil, (C) ethylenebisstearic acid amide,

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and (D) 1-10 wt% coloring pigment, wherein the binder resin can be a maleic acid rosin or a petroleum resin (Means to Solve the Problem). Inclusion of coloring pigments implies that the composition is pigmentable. Attention is drawn to Examples 1 and 2, wherein amount of ethylenebisstearic acid amide is calculated to be 7.7 wt% for Example 1 and 14.3 wt% for Example 2. Thus, Fujitani et al. do not teach or fairly suggest a pigmentable binder composition comprising (A) a petroleum resin, (B) a lubricating oil and/or a lubricating oil extract, and (C) from 0.05 to less than 3 wt % of $R^1\text{-CO-NH-(CH}_2)_x\text{-NH-CO-R}^2$.

Syrier et al. disclose a pigmentable binder for asphaltic composition comprising (A) a mineral lubricating oil extract and (B) a petroleum resin, wherein the petroleum resin is modified with carboxylic acid, carboxylic acid anhydride, or hydroxy group (claims 1-9). Syrier et al. further disclose that the binder composition can contain 0.5-10 wt % of wax (page 2, lines 44-46 and 57-61). In comparing Claims 1-3 (and Comparative Example A (the present invention)), the asphalt compositions prepared from these binders (Examples 1-3) need to be heated in the order of 20°C lower than one prepared from the Comparative Example A to obtain the same workability.

| Binder | Ex. 1 | Ex.2 | Ex.3 | Comp.Ex.A |
|-------------------------------|-------|------|------|-----------|
| Mexphalte CP2 (wt%) | 99.0 | 98.5 | 98.0 | 100 |
| ethylene bis-stearamide (wt%) | 1.0 | 1.5 | 2.0 | 0 |
| workability temp. (°C) | | | | |
| synthetic asphalt | 214 | 224 | 214 | 234 |
| green synthetic asphalt | 226 | 230 | 218 | 245 |
| red synthetic asphalt | 243 | 238 | 233 | 255 |

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Thus, Syrier et al. do not teach or fairly suggest a pigmentable binder composition comprising (A) a petroleum resin, (B) a lubricating oil and/or a lubricating oil extract, and (C) from 0.05 to less than 3 wt % of $R^1\text{-CO-NH-(CH}_2\text{)}_x\text{-NH-CO-R}^2$. ✓

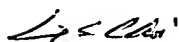
In light of the above discussion, it is evident as to why the present claims are patentable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reach on 571-272-1114.



LING-SUI CHOI
PRIMARY EXAMINER

August 3, 2006